

**EXHIBIT A**

(Plaintiff's grievance submitted to  
Superintendant Wolfe on July 23, 2003)

On July 15, 2003 I was placed in the holding cells of I.C.I. Smithfield awaiting transfer to I.C.I. Allion. After the bus to Allion arrived I was stripped by one of the officers employed there. During that search I was sexually harassed by the officer conducting the search. The officer ordered me to lift my penis and testicles separately six successive times. He also ordered me to spread my buttocks wider four separate times and to allow him to look into my nose.

When I would begin to protest these orders I was immediately scolded and threatened with a misconduct for refusing to obey an order. This officer used repeated profanity toward me and told me to "get used to this type of treatment because there would be much more of it after I got to Allion."

Shortly after this incident I was handcuffed and placed in another cell with the rest of the inmates awaiting transfer. At that time the correctional officers were calling the names of inmates who were ordered to leave the cell and state their prison identification number as they were leaving. When the officer called my name I was told "don't say anything, I already know your number."

I was then placed on the bus with the rest of the inmates and subsequently arrived at I.C.I. Houtzdale. After the inmates who were to be housed at Houtzdale exited the bus I was asked by an officer "Herwin, you headed for Allion right?" When I stated "yes" the bus officers began to murmur with

each other and then laugh out loud.

Since arriving at Allion this type of treatment has progressed considerably. The morning of my first full day in this institution I was called down to see the psychiatrist in the education building. When I approached the education building door I was stopped by two officers who stated that "they've already heard about me" and that "I looked like a troublemaker" among other things. They also stated that "I would be picking up trash by the end of the week." Not coincidentally I was forced to pick up trash today on 7/23/03.

Also today, after breakfast, I was pulled over outside of the chow hall and patted down in an ~~in~~ inappropriate manner. During that pat down I was verbally harassed by three officers one of which repeatedly instructed the other officers to "look me up with a write-up" and to "just make up a reason". This is only some of the harassment I have been forced to endure during ~~an~~ only a 7 day period of time.

On 7/22/03 I was called into Mr. Blowers office because of a grievance I had filed about being threatened into signing a cell card contract and another for being celled with an inmate who smokes and for falling off the top bunk twice due to the absence of safety bars. During that meeting I was told by Mr. Blowers that he was a former employee of S.C.I. Smithfield who knows Ms. Hannal and Ms. Zimmerman and that he already heard about the lawsuit I was preparing to file against

Smithfield. He also stated that I better reconsider filing or "I would regret it" and "my officers have no problem dealing with troublemakers."

Just so you know, Smithfield intercepted an affidavit I signed for inmate Justin Coliss, an inmate who has a pending lawsuit against Smithfield, regarding the officer elicited assaults that took place there. The next morning Mr. Coliss was transferred out of the prison and I was moved off of the block. Also, on July 10, 2003 several witness affidavits regarding my suit were illegally seized from the inmate who was collecting them for me.

Obviously, Smithfield intends to do everything in its power to see to it that my lawsuit against the prison is never filed. My transfer to this prison is apparently part of Smithfield's plan to prevent me from obtaining affidavits from my witnesses. It seems that officers in your prison have been given instructions to abuse and harass me in retaliation for attempting to file my suit. Mr. Showers comment certainly confirms this.

It is your duty to protect me from these officers. If this retaliation does not stop immediately, I will file a civil action against this prison under section § 1983, 1985, and 1986 for cruel and unusual punishment and conspiracy to violate constitutional rights. I suggest that you take this seriously because I am very serious.

This type of claim qualifies me for immediate injunctive

relief so I will not have to exhaust your pathetically unjust institutional remedy procedures before filing suit. act now or I will sue. If your institution begins fabricating misconducts now then it will only further my cause so I suggest that you dont do it. I have retained a copy of this notice and I await your response.

note: the second I finished writing this complaint I was again singled out and punished by the block officers. I was sent outside to mow the grass while every other inmate in the jail was allowed to go to yard and blackout. I'm not even about to get into the specifics surrounding the situation because I've already provided enough facts to prove what is going on. I just figured it would be a good idea to raise the incident for the record.

EXHIBIT B

(The misconduct the defendant issued plaintiff for filing  
his grievance against Albion and his lawsuit against Smithfield)

FORM DC-141 PART 1 Rev 3/00		<b>COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS</b>				<b>A 495879</b>	
<input checked="" type="checkbox"/> MISCONDUCT REPORT <input type="checkbox"/> OTHER <input type="checkbox"/> DC-ADM 801 INFORMAL RESOLUTION							
DC Number <b>DZ 0246</b>	Name <b>KERWIN, RYAN</b>	Institution <b>SCI-ALBION</b>	Incident Time 24 Hr. Base <b>1800</b>	Incident Date <b>8/05/03</b>	Date of Report <b>8/26/03</b>		
Quarters <b>DA 162</b>	Place of Incident <b>Visit Strip Interview Room</b>						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
DC Number	Name	I	W	DC Number	Name	I	W
MISCONDUCT CHARGE OR OTHER ACTION							
<b>B CLASS I CHARGES #42 - Lying To AN Employee</b>							
STAFF MEMBER'S VERSION							
On the above time and date this writer conducted an interview with inmate KERWIN DZ 0246 regarding his allegations of abuse by SCI-ALBION staff. In his complaint Kerwin writes that he was sexually harassed by a member of the ALBION Bus Transport Team. During his strip search at SCI-Smithfield, Kerwin also writes that Mr. Showers made the comment to him that he (Showers) "already heard about the lawsuit I was preparing to file against Smithfield. He also stated that I better reconsider filing or I would regret it and my officers have no problem dealing with troublemakers." This writer interviewed Kerwin's witness. He does not support Kerwin's version. I also interviewed the officers assigned to the Bus Transport Team on 7/15/03. Officer Spurluck, Officer Sord, and Sgt Rhoades. These officers deny harassing Kerwin in any manner. I interviewed Mr. Showers. He denies making the alleged comment to Kerwin. The investigation (SCIA-052-02) concludes that it is more likely than not that inmate Kerwin fabricated the allegations. (Continued)							
IMMEDIATE ACTION TAKEN AND REASON							
Formal hearing due to seriousness							
PRE-HEARING CONFINEMENT				input REC			
IF YES							
<input type="checkbox"/> YES	TIME	DATE		FORMS GIVEN TO INMATE <input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION <input checked="" type="checkbox"/> INMATE'S VERSION			
<input checked="" type="checkbox"/> NO							
REPORTING STAFF MEMBER SIGNATURE AND TITLE		ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY		DATE AND TIME INMATE GIVEN COPY			
<b>Wm McConnell</b> McConnell		<b>Ch. [Signature]</b> [Signature]		<b>8-26-03</b> DATE    TIME 24 HOUR BASE		<b>1530</b> DATE    TIME 24 HOUR BASE	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER		MISCONDUCT CATEGORY		Signature of Person Serving Notice			
DATE    TIME		<input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2		<b>LONG</b> <b>Long [Signature]</b>			
<b>7-29-03</b> DATE    TIME		<b>0900</b> DATE    TIME					
NOTICE TO INMATE You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law. If this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.							

WHITE — DC-15

YELLOW — Inmate

PINK — Reporting Staff Member

GOLDENROD — Deputy Superintendent Facility Management

***DC-ADM 801 Inmate Discipline Policy, Attachment B***

EXHIBIT C

(Letter from Huntingdon County Courthouse)

JUDGE'S CHAMBERS

COURTHOUSE

HUNTINGDON, PA 16652

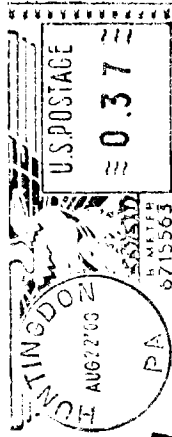
MAIL ROOM

AUG 25 2003

RECEIVED

Ryan Kerwin, DZ-0246  
S. C. I-Albion  
10745, Route 18  
Albion, Pennsylvania

16475-0002



62



16475-0002

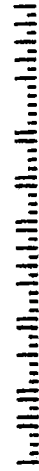


EXHIBIT D

(Order granting plaintiff leave to proceed  
in forma pauperis in his suit against Smithfield)

B

IN THE COURT OF COMMON PLEAS OF HUNTINGDON COUNTY,  
PENNSYLVANIA

CIVIL DIVISION

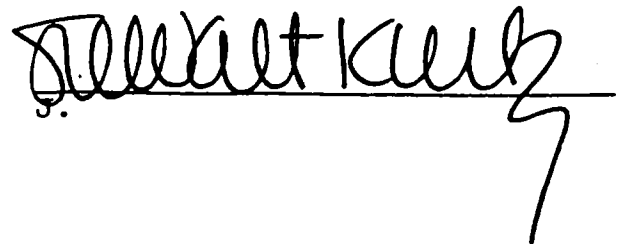
RYAN KERWIN, :  
Plaintiff :  
 :  
vs. : NO. 03-1027  
 :  
BEN VARNER, et al., :  
Defendants: :

O R D E R

AND NOW, this 22nd day of August, A.D., 2003, It is the Order of this Court that the request of Ryan Kerwin, DZ-0246, to proceed in forma pauperis is granted. It is the further Order of this Court that Plaintiff shall furnish to the Prothonotary ten (10) copies of the complaint in order for service to be effectuated by the Sheriff.

BY THE COURT,

Ryan Kerwin

  
S.

NOTICE OF ENTRY OF ORDER OR DECREE  
PURSUANT TO P.A. R. C. P. NO. 203  
NOTIFICATION - THIS DOCUMENT HAS  
BEEN FILED IN THIS CASE  
PROTHONOTARY HUNTINGDON COUNTY, PA  
DATE:

AUG 22 2003

EXHIBIT E

(Affidavit of William Clark)

DECLARATION OF William Clark

While detained in the holding cells of S.C.I. Smithfield awaiting transfer to S.C.I. Albion, I met an inmate named Brian Kerwin. During a strip search, prior to transfer, I observed an Albion officer (who was strip searching inmate Kerwin) harass Kerwin for no apparent reason during the search.

This officer seemed to find humor in ordering Kerwin to lift his genitals and spread his buttocks "wider" numerous times. The officer even ordered Kerwin to allow him to look into his nose.

When Kerwin would try to protest this abuse, the officer would yell at him and threaten him with a misconduct for refusing to obey an order. The officer even cursed at him and at one point said "Get used to this type of treatment because there would be more of it after you get to Albion".

After the strip search, myself, inmate Kerwin, and several other inmates were placed in another cell to await transfer. At that time correctional officers were calling the names of inmates who were ordered to leave the cell and state their prison identification number as they were leaving. When the officer called Kerwin's name, he was told "Don't say anything, I already know your number", in a very sarcastic manner.

I was subsequently placed on a bus with Kerwin and several other inmates and later arrived at S.C.I. Houtzdale. After the inmates who were to be housed there exited the bus, I heard a bus officer ask Kerwin if he was headed for Albion. When he stated yes, the bus officers began to mumble with each other and then laugh out loud.

The morning of my first full day at Albion, I was called down to see the psychiatrist at the education building along with Mr. Kerwin. When we approached the building door, Kerwin was stopped by two officers who told him "they heard all about him", and that he "looked like a trouble maker". I also heard them tell him "he would be picking up trash by the end of the week".

I was subsequently interviewed by Lt. McConnell regarding the forementioned incidents and I told him exactly what I have testified to in this affidavit.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

2-5-05

William Clark

EXHIBIT F

(Plaintiff's misconduct witness form)

### **PINK – Staff Member Reporting Misconduct**

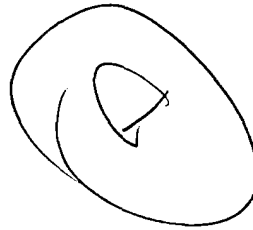
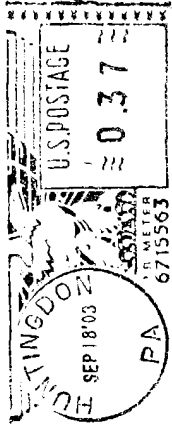
**EXHIBIT G**

(Plaintiff's misconduct disposition form)

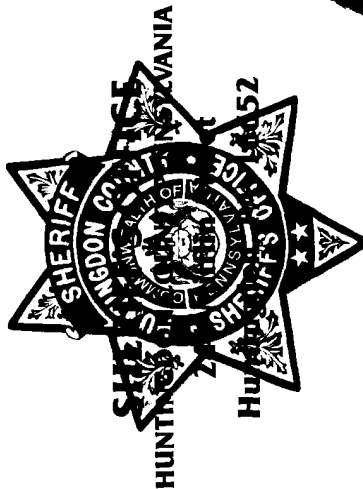
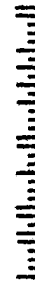
**GOLDENROD - Deputy Superintendent**

EXHIBIT H

(Letter from Huntingdon County Courthouse)



Ryan Kerwin, DZ-0246  
SCI-Albion  
10745 Route 18  
Albion, PA 16475



62

EXHIBIT I

(Sheriff's Return of Service forms in Smithfield suit)



# SHERIFF'S OFFICE

## HUNTINGDON COUNTY, PENNSYLVANIA

241 Mifflin Street  
Huntingdon, PA 16652  
Telephone: 814-643-0880  
William G. Walters, Sheriff

Ryan Kerwin

NO. 1027 TERM 2003

VS:

Ben Varner, Sue Hannah, and George Weaver

NOW, September 11, 2003, AT 0845 A.M./P.M. I SERVED THE WITHIN

Notice to Defend and Complaint UPON

Ben Varner, Sue Hannah, and George Weaver AT

SCI-Smithfield, 1120 Pike Street, Huntingdon, PA 16652

BY HANDING TO Lisa Hollibaugh, Superintendant's Assistant

one TRUE AND CORRECT COPY/COPIES OF THE WITHIN Notice to Defend and Complaint

AND MADE KNOWN TO Lisa

THE CONTENTS THEREOF.

SWORN AND SUBSCRIBED TO  
BEFORE ME THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_  
20\_\_\_\_, A.D.

SO ANSWERS,

*William G. Walters*

WILLIAM G. WALTERS, SHERIFF

PROTHONOTARY/NOTARY PUBLIC

Deputy Daniel B. McCartney  
CHIEF DEPUTY/DEPUTY

### COSTS:

REC & DOC . . . . .	Hunt Co. Costs
SERVICE . . . . .	\$203.00
MILEAGE/POSTAGE . . . . .	Cumb. Co Costs
SURCHARGE . . . . .	N/A
AFFIDAVIT . . . . .	---
MISCELLANEOUS . . . . .	Total Co. Costs

TOTAL COSTS

\$203.00 Indigent



# SHERIFF'S OFFICE

## HUNTINGDON COUNTY, PENNSYLVANIA

241 Mifflin Street  
Huntingdon, PA 16652  
Telephone: 814-643-0880  
William G. Walters, Sheriff

Ryan Kerwin

NO. 1027 TERM 2003

VS:

Sharon Burks

NOW, September 11, 2003, I AM UNABLE TO LOCATE THE WITHIN

NAMED DEFENDANT, Sharon Burks, WITHIN MY BAILIWICK, I

RETURN THIS Notice to Defend and Complaint

"NOT FOUND". REASON UNABLE TO SERVE: Ms. Burks has been transferred to

Central Office

SWORN AND SUBSCRIBED TO  
BEFORE ME THIS  
DAY OF  
20     , A.D.

SO ANSWERS,

*William G. Walters*

WILLIAM G. WALTERS, SHERIFF

PROTHONOTARY/NOTARY PUBLIC

Deputy Daniel B. McCartney  
CHIEF DEPUTY/DEPUTY

### COSTS:

REC & DOC . . . . .	<u>See</u>
RETURN NOT FOUND. . . . .	<u>---</u>
MILEAGE/POSTAGE . . . . .	<u>First</u>
SURCHARGE . . . . .	<u>---</u>
AFFIDAVIT . . . . .	<u>Entry</u>
MISC . . . . .	<u>---</u>
<b>TOTAL COSTS</b>	<u>See First Entry</u>



# SHERIFF'S OFFICE

## HUNTINGDON COUNTY, PENNSYLVANIA

241 Mifflin Street  
Huntingdon, PA 16652  
Telephone: 814-643-0880  
William G. Walters, Sheriff

Ryan Kerwin

NO. 1027 TERM 2003

VS:

Dr. McGarvie

NOW, September 11, 2003, I AM UNABLE TO LOCATE THE WITHIN

NAMED DEFENDANT, Dr. McGarvie, WITHIN MY BAILIWICK, I

RETURN THIS Notice to Defend and Complaint

"NOT FOUND". REASON UNABLE TO SERVE: No such Doctor works there with the name

of Dr. McGarvie

SWORN AND SUBSCRIBED TO  
BEFORE ME THIS  
DAY OF  
20   , A.D.

SO ANSWERS,

*William G. Walters*

WILLIAM G. WALTERS, SHERIFF

PROTHONOTARY/NOTARY PUBLIC

Deputy Daniel B. McCartney  
CHIEF DEPUTY/DEPUTY

### COSTS:

REC & DOC . . . . .	See
RETURN NOT FOUND.	---
MILEAGE/POSTAGE . . . . .	First
SURCHARGE . . . . .	---
AFFIDAVIT . . . . .	Entry
MISC . . . . .	---
<b>TOTAL COSTS</b>	See First Entry



# SHERIFF'S OFFICE

## HUNTINGDON COUNTY, PENNSYLVANIA

241 Mifflin Street  
Huntingdon, PA 16652  
Telephone: 814-643-0880  
William G. Walters, Sheriff

Ryan Kerwin

NO. 1027 TERM 2003

VS:

Jeffrey Beard, John McCullough, Thomas  
James, Tshanna Kyler, and Kristen Kersin

NOW, September 15, 2003, I AM UNABLE TO LOCATE THE WITHIN

NAMED DEFENDANT, Jeffrey Beard, John McCullough, Thomas James, Tshanna Kyler, and Kristen Kersin, WITHIN MY BAILIWICK, I

RETURN THIS Notice to Defend and Complaint

"NOT FOUND". REASON UNABLE TO SERVE: Cumberland County Sheriff's Office

recieved document's too late for service

SWORN AND SUBSCRIBED TO  
BEFORE ME THIS  
DAY OF  
20\_\_\_, A.D.

SO ANSWERS,

*William G Walters*

WILLIAM G. WALTERS, SHERIFF

PROTHONOTARY/NOTARY PUBLIC

Secretary Nicole L. Erwin  
CHIEF DEPUTY/DEPUTY

### COSTS:

REC & DOC . . . . .	See
RETURN NOT FOUND. . . . .	---
MILEAGE/POSTAGE . . . . .	First
SURCHARGE . . . . .	---
AFFIDAVIT . . . . .	Entry
MISC . . . . .	---
<b>TOTAL COSTS</b>	See First Entry

EXHIBIT J

(Plaintiff's second misconduct)

FORM DC-141 PART 1 Rev 3/00		<b>COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS</b>				<b>A 436723</b>	
<input checked="" type="checkbox"/> MISCONDUCT REPORT <input type="checkbox"/> OTHER <input type="checkbox"/> DC-ADM 801 INFORMAL RESOLUTION							
DC Number <b>D2 0246</b>		Name <b>KERWIN</b>		Institution <b>SCIA</b>		Incident Time 24 Hr. Base <b>1452</b>	
Incident Date <b>9-22-03</b>		Date of Report <b>9-22-03</b>					
Quarters <b>DA 62</b>		Place of Incident <b>D/A Dayroom OFFICERS DESK</b>					
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
DC Number		Name		I	W	DC Number	
MISCONDUCT CHARGE OR OTHER ACTION <b>CLASS 1 CHARGE #35 REFUSING TO OBEY AN ORDER</b> <b>CLASS 1 CHARGE #30 BREAKING RESTRICTION QUARANTINE OR INFORMAL RESOLUTION</b> <b>SANCTION CLASS 1 CHARGE #43 PRESENCE IN AN UNAUTHORIZED AREA</b>							
STAFF MEMBER'S VERSION							
<p>ON THE ABOVE DATE AND TIME THIS REPORTING OFFICER OPENED CELL 62 TO LET INMATE BICKEL FA 8942 IN HIS CELL (62) AT THIS TIME INMATE KERWIN D2 0246 CAME OUT OF HIS CELL (62) TO THE OFFICERS DESK TO USE THE STAPLER. INMATE KERWIN IS CURRENTLY ON CELL RESTRICTION. THIS OFFICER ASKED INMATE KERWIN D2 0246 IF HE WAS GIVEN CELL RESTRICTION RULES. HIS REPLY WAS YES I WAS, AND THEN WENT BACK TO HIS CELL.</p> <p>BY COMING OUT HIS CELL TO USE THE STAPLER KERWIN REFUSED TO OBEY THE ORDER OF 30 DAYS CELL RESTRICTION, BROKE CELL RESTRICTION AND AT THE SAME TIME PLACED HIMSELF IN AN UNAUTHORIZED AREA.</p>							
IMMEDIATE ACTION TAKEN AND REASON							
<i>Refer to formal resolution class 1 to the serious nature of the misconduct</i>							
PRE-HEARING CONFINEMENT				FORMS GIVEN TO INMATE <input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION <input checked="" type="checkbox"/> INMATE'S VERSION			
IF YES							
TIME		DATE					
<input type="checkbox"/> YES				REPORTING STAFF MEMBER SIGNATURE AND TITLE <i>R. McLaughlin C-1</i>			
<input checked="" type="checkbox"/> NO							
ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY <i>2011 J. P. COTE</i>				SIGNATURE AND TITLE		DATE AND TIME INMATE GIVEN COPY DATE <b>9-22-03</b>	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE <b>9-23-03</b>				TIME <b>2038</b>		MISCONDUCT CATEGORY <input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2	
Signature of Person Serving Notice <i>Morales</i> <b>Morales C-1</b>							
NOTICE TO INMATE You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.							

WHITE — DC-15    YELLOW — Inmate    PINK — Reporting Staff Member    GOLDENROD — Deputy Superintendent Facility Management

**EXHIBIT K**

(Plaintiff's second misconduct disposition form)

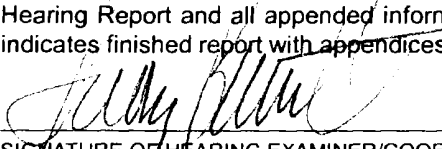
<b>DC-141 Part 2B</b>		<b>COMMONWEALTH OF PENNSYLVANIA</b>			
Rev. 6-84		<b>DEPARTMENT OF CORRECTIONS</b>			
<b>DISCIPLINARY HEARING REPORT</b>					
DC Number <b>DE 0246</b>	Name <b>KEA WIN</b>	Facility <b>SCIA</b>	Hearing Date <b>25 Sept 03</b>	Hearing Time <b>1100</b>	No. from Part 1 <b>A436723</b>
INMATE PLEA	<input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict <input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty		
<b>HEARING ACTION</b>					
CHARGES <b>#35 #43</b> <b>#30</b>					
<b>FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED</b> <b>INMATE PLEAS "NO CONTEST TO ALL CHARGES" (Guilty)</b>  <div style="text-align: center; font-size: 1.2em;"> <b>EXAMINER ACCEPTS Guilty Plea</b>   <b>Guilty #35, #30, #43</b>   <b>SANCTION 30 Days CCU Restriction</b>   <b>JFC CONSECUTIVE</b>   <b>Remove from JOB</b> </div>					
<input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen. The circumstances of the charge have been read and fully explained to the inmate. The opportunity to have the inmate's version reported as part of the record was given. The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.			<b>SEE APPENDICES</b> <input type="checkbox"/>
<b>NAME(S) OF HEARING EXAMINER/COMMITTEE</b> (TYPED OR PRINTED)  <b>IVORY BARRETT</b>		Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.   <b>SIGNATURE OF HEARING EXAMINER/COORDINATOR</b>			

EXHIBIT L

(Plaintiff's first green sheet from parole)



COMMONWEALTH OF PENNSYLVANIA  
BOARD OF PROBATION AND PAROLE

1101 S. Front Street  
Harrisburg, Pa. 17104 - 2519

NOTICE OF BOARD DECISION

NAME: RYAN KERWIN  
INSTITUTION: SCI - ALBION

PAROLE NO: 494CE  
INSTITUTION NO: DZ0246

AS RECORDED ON NOVEMBER 05, 2003 THE BOARD OF PROBATION AND PAROLE RENDERED THE FOLLOWING DECISION IN YOUR CASE:

FOLLOWING AN INTERVIEW WITH YOU AND A REVIEW OF YOUR FILE, AND HAVING CONSIDERED ALL MATTERS REQUIRED PURSUANT TO THE PAROLE ACT OF 1941, AS AMENDED, 61 P.S. § 331.1 ET SEQ., THE BOARD OF PROBATION AND PAROLE, IN THE EXERCISE OF ITS DISCRETION, HAS DETERMINED AT THIS TIME THAT: YOUR BEST INTERESTS DO NOT JUSTIFY OR REQUIRE YOU BEING PAROLED/REPAROLED; AND, THE INTERESTS OF THE COMMONWEALTH WILL BE INJURED IF YOU WERE PAROLED/REPAROLED. THEREFORE, YOU ARE REFUSED PAROLE/REPAROLE AT THIS TIME. THE REASONS FOR THE BOARD'S DECISION INCLUDE THE FOLLOWING:

- YOUR VERSION OF THE NATURE AND CIRCUMSTANCES OF THE OFFENSE(S) COMMITTED.
- YOUR LACK OF REMORSE FOR THE OFFENSE(S) COMMITTED.
- THE RECOMMENDATION MADE BY THE PROSECUTING ATTORNEY.
- THE RECOMMENDATION MADE BY THE DEPARTMENT OF CORRECTIONS.
- REPORTS, EVALUATIONS AND ASSESSMENTS CONCERNING YOUR PHYSICAL, MENTAL AND BEHAVIOR CONDITION AND HISTORY.
- YOUR INSTITUTIONAL BEHAVIOR, INCLUDING REPORTED MISCONDUCTS OR CCC FAILURE.
- YOUR INTERVIEW WITH THE HEARING EXAMINER AND/OR BOARD MEMBER.

YOU WILL BE REVIEWED IN OR AFTER OCTOBER, 2004.

AT YOUR NEXT INTERVIEW, THE BOARD WILL REVIEW YOUR FILE AND CONSIDER:

WHETHER YOU HAVE RECEIVED A FAVORABLE RECOMMENDATION FOR PAROLE FROM THE

(CONTINUE ON PAGE 2)

CLIENT COPY  
RYAN KERWIN DZ0246  
10745 ROUTE 18  
ALBION, PA 16401

16401

11/10/03  
A-2

**EXHIBIT M**

(Plaintiff's second green sheet from parole)



COMMONWEALTH OF PENNSYLVANIA  
BOARD OF PROBATION AND PAROLE

1101 S. Front Street  
Harrisburg, Pa. 17104 - 2519

NOTICE OF BOARD DECISION

NAME: RYAN KERWIN  
INSTITUTION: SCI - ALBION

PAROLE NO: 494CE  
INSTITUTION NO: DZ0246

AS RECORDED ON OCTOBER 29, 2004 THE BOARD OF PROBATION AND PAROLE RENDERED THE FOLLOWING DECISION IN YOUR CASE:

FOLLOWING AN INTERVIEW WITH YOU AND A REVIEW OF YOUR FILE, AND HAVING CONSIDERED ALL MATTERS REQUIRED PURSUANT TO THE PAROLE ACT OF 1941, AS AMENDED, 61 P.S. § 331.1 ET SEQ., THE BOARD OF PROBATION AND PAROLE, IN THE EXERCISE OF ITS DISCRETION, HAS DETERMINED AT THIS TIME THAT: YOUR BEST INTERESTS DO NOT JUSTIFY OR REQUIRE YOU BEING PAROLED/REPAROLED; AND, THE INTERESTS OF THE COMMONWEALTH WILL BE INJURED IF YOU WERE PAROLED/REPAROLED. THEREFORE, YOU ARE REFUSED PAROLE/REPAROLE AT THIS TIME. THE REASONS FOR THE BOARD'S DECISION INCLUDE THE FOLLOWING:

- YOUR VERSION OF THE NATURE AND CIRCUMSTANCES OF THE OFFENSE(S) COMMITTED.
- REPORTS, EVALUATIONS AND ASSESSMENTS CONCERNING YOUR PHYSICAL, MENTAL AND BEHAVIOR CONDITION AND HISTORY.
- YOUR INSTITUTIONAL BEHAVIOR, INCLUDING REPORTED MISCONDUCTS.
- YOUR INTERVIEW WITH THE HEARING EXAMINER AND/OR BOARD MEMBER.

YOU WILL BE REVIEWED IN OR AFTER OCTOBER, 2005.

AT YOUR NEXT INTERVIEW, THE BOARD WILL REVIEW YOUR FILE AND CONSIDER:

WHETHER YOU HAVE SUCCESSFULLY COMPLETED A TREATMENT PROGRAM FOR: PRESCRIPTIVE PROGRAM PLAN.

WHETHER YOU HAVE RECEIVED A FAVORABLE RECOMMENDATION FOR PAROLE FROM THE

(CONTINUE ON PAGE 2)

CLIENT COPY  
RYAN KERWIN DZ0246  
10745 ROUTE 18  
ALBION, PA 16401

16401

Notice of Board Decision  
PBPP 15(08/02) 1 of 2

EXHIBIT O

(Plaintiff's Cumulative Adjustment Record)

DC-14

CUMULATIVE  
ADJUSTMENT RECORDCOMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF CORRECTIONSSCIA

Facility

FACILITY NUMBER

PBP NUMBER

NAME

DZ0246

Kerwin

DATE

OBSERVATION

DATE	OBSERVATION
7-15-03	Read on I this date Kersey
7-23-03	D/O NOT TO GET UP AND ROOM AROUND THE DINING HALL. WAS DISRESPECTFUL AND MOUTHY WHEN GIVEN D/O OFR GRIBNER
7-23-03	I/M HAS A POOR ATTITUDE AND HAS PROBLEMS WITH FOLLOWING ORDERS IS VERY SMUG AND DISRESPECTFUL TOWARD STAFF - WERNICKI
7-29-03	received DIA, rec'd copy unit notes. CO, Gould

(OVER)

EXHIBIT P

(Albion block rules)

## **B Unit Rules**

**It is your responsibility to read and follow the unit rules.**

### **I. MOVE TIMES**

1. Block out hours are as follows:  
**10:00 AM to 10:30 AM** Yard returnees only, you must turn your I.D. into the unit officer. If you go in your cell, you are not permitted back out.  
**1:15 PM to 3:30 PM** (Block out begins when yard is called.)  
**6:00 PM to 9:00 PM** (Block out begins when chow hall is secured.) You must be in your cell with your door **SHUT** by 9:00 PM
2. Move times announced by Control are five minutes in length. Block moves are called and terminated by unit officers. Moved to Dining hall and yard are called by Unit Officer and are to be made quickly and quietly.
3. **All movement (worker, call-outs, activities) must be made within five minutes of the announcement. If you do not move within the five-minute time frame, you will not be permitted to move.**
4. Request for toilet paper and hot water are to be made during move times only. Requests for paperwork are to be made during block out.
5. Yard, work lines and scheduled activities will be announced by Control.
6. Read call-out daily. When you are on a call-out, you do not need a pass.
7. You are to walk on the right side of the walkway for every move. No running in the unit or walkway.

### **II. COUNT TIME**

1. All counts (except for counts between 2200 and 0600 hours.) are standing counts. Ensure that your light is on and that you are standing and visible for count. Dormitory residents must stand by your assigned bed. Failure to do so will result in a misconduct.

### **III. PHONES**

1. Sign up for phone time (during evening block out but before 8:00 pm). One time slot at 15 minute maximum. You must hang up when 15 minute time slot ends. Incomplete calls are at the unit officer's discretion.
2. You must legibly sign your name, number and cell number only.
3. No phone sharing (time exchanges or more than one man on the phone).
4. Custody level 2 inmates must sign one slot the night before and may request two additional time slots on the day of the call. At unit officer's discretion – **NO CONSECUTIVE SIGN-UPS.**
5. Custody level 3Y must have prior written approval to receive custody level 2 telephone privileges.
6. Telephone Add/Delete forms are to be submitted to the Unit Manager for signature the first five working days of the month only. Telephone forms must have your name, number, housing unit and signature in order to be processed. Failure to submit to the Unit Manager for signature or to complete the form correctly will result in a delay until the next month. One telephone form per month only.

EXHIBIT Q

(Plaintiff's inmate account statements  
from September, October and November of 2003)

PAGE 1  
D-A-2062INMATE ACCOUNTS SYSTEM  
MONTHLY ACCOUNT STATEMENT09-08-2003  
958 ALB

INMATE NUMBER	NAME LAST	FIRST	MI	OLD BALANCE
DZ0246	KERWIN	RYAN		152.62

BATCH #	DATE MO DY YEAR	TRANSACTION DESCRIPTION	TRANSACTION AMOUNT	BALANCE AFTER TRANSACTION
179	08-13-2003	38 INSIDE PURCHASES UPS	-3.45	149.17
181	08-13-2003	38 INSIDE PURCHASES VENDA CARD	-6.00	143.17
197	08-13-2003	37 POSTAGE	-2.21	140.96
8226	08-14-2003	32 ALB COMMISSARY FOR 8/14/2003	-20.64	120.32
255	08-19-2003	10 MAINTENANCE PAYROLL 7/20-8/16/2003 PAY GROUP 3	14.40	134.72
255	08-19-2003	50 ACT 84 TRANSACTION * 1130/1999 08/19/03	-2.88	131.84
286	08-21-2003	31 OUTSIDE PURCHASES HOLABIRD SPORTS	-81.90	49.94
8233	08-21-2003	32 ALB COMMISSARY FOR 8/21/2003	-24.74	25.20
304	08-22-2003	13 PERSONAL GIFT FROM KELLER, BERTHA F826189	25.00	50.20
304	08-22-2003	50 ACT 84 TRANSACTION * 1130/1999 08/22/03	-5.00	45.20
345	08-26-2003	37 POSTAGE	-.23	44.97
371	08-28-2003	13 PERSONAL GIFT FROM MARCHIONE, CHRISTINE F827326	300.00	344.97
371	08-28-2003	50 ACT 84 TRANSACTION * 1130/1999 08/28/03	-60.00	284.97
8240	08-28-2003	34 ALB CABLE TV FOR 8/28/2003	-11.25	273.72
393	08-29-2003	37 POSTAGE	-.37	273.35
8246	09-03-2003	32 ALB COMMISSARY FOR 9/03/2003	-31.84	241.51
446	09-04-2003	14 MISCELLANEOUS HOLABIRD SPORTS F820626	7.00	248.51

NEW BALANCE AS OF THIS STATEMENT -----&gt; 248.51

PAGE 1  
D-A-2062INMATE ACCOUNTS SYSTEM  
MONTHLY ACCOUNT STATEMENT10-13-2003  
953 ALB

INMATE NUMBER DZ0246	NAME LAST KERWIN	FIRST RYAN	MI	OLD BALANCE 248.51
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BATCH #	DATE MO DY YEAR		TRANSACTION DESCRIPTION	TRANSACTION AMOUNT	BALANCE AFTER TRANSACTION
8253	09-10-2003	32	ALB COMMISSARY FOR 9/10/2003	-13.92	234.59
8261	09-18-2003	32	ALB COMMISSARY FOR 9/18/2003	-18.14	216.45
638	09-19-2003	37	POSTAGE	- .60	215.85
665	09-23-2003	10	MAINTENANCE PAYROLL 8/17-9/20/03		
			PAY GROUP-3	7.20	223.05
665	09-23-2003	50	ACT 84 TRANSACTION * 1130/1999		
			09/23/03	-1.44	221.61
8267	09-24-2003	32	ALB COMMISSARY FOR 9/24/2003	-22.67	198.94
8268	09-25-2003	34	ALB CABLE TV FOR 9/25/2003	-11.25	187.69
731	09-26-2003	37	POSTAGE	-1.98	185.71
780	10-01-2003	31	OUTSIDE PURCHASES NASCO ARTS & CRAFTS	-26.63	159.08
8274	10-01-2003	32	ALB COMMISSARY FOR 10/01/2003	-25.33	133.75
805	10-02-2003	37	POSTAGE	-4.05	129.70
872	10-08-2003	39	LEGAL FEES US DISTRICT COURT	-5.00	124.70
878	10-08-2003	37	POSTAGE	- .60	124.10
8282	10-09-2003	32	ALB COMMISSARY FOR 10/09/2003	-17.36	106.74

NEW BALANCE AS OF THIS STATEMENT -----&gt; 106.74

PAGE 1  
D-A-2062INMATE ACCOUNTS SYSTEM  
MONTHLY ACCOUNT STATEMENT11-07-2003  
946 ALBINMATE NAME  
NUMBER LAST FIRST MI  
DZ0246 KERWIN RYANOLD BALANCE  
106.74

BATCH #	DATE MO DY YEAR	TRANSACTION DESCRIPTION	TRANSACTION AMOUNT	BALANCE AFTER TRANSACTION
932	10-15-2003 37	POSTAGE		
			-.60	106.14
8289	10-16-2003 32	ALB COMMISSARY FOR 10/16/2003	-35.16	70.98
966	10-17-2003 38	INSIDE PURCHASES UPS	-3.22	67.76
985	10-20-2003 13	PERSONAL GIFT FROM MARCHIONE, CHRISTINE G435595	300.00	367.76
985	10-20-2003 50	ACT 84 TRANSACTION * 1130/1999 10/20/03	-60.00	307.76
999	10-20-2003 37	POSTAGE	-2.90	304.86
999	10-20-2003 37	POSTAGE	-.60	304.26
1006	10-21-2003 10	MAINTENANCE PAYROLL 9/21-10/18/03 PAY GROUP-3	7.92	312.18
1006	10-21-2003 50	ACT 84 TRANSACTION * 1130/1999 10/21/03	-1.58	310.60
8295	10-22-2003 32	ALB COMMISSARY FOR 10/22/2003	-21.73	288.87
1057	10-24-2003 37	POSTAGE	-1.06	287.81
1090	10-28-2003 37	POSTAGE	-.60	287.21
8303	10-30-2003 32	ALB COMMISSARY FOR 10/30/2003	-24.37	262.84
8303	10-30-2003 34	ALB CABLE TV FOR 10/30/2003	-11.25	251.59
8309	11-05-2003 32	ALB COMMISSARY FOR 11/05/2003	-30.39	221.20
1219	11-06-2003 37	POSTAGE	-.60	220.60

NEW BALANCE AS OF THIS STATEMENT -----&gt; 220.60

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RYAN KERWIN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05-93 Erie
	)	
WILLIAM McCONNELL,	)	
	)	
Defendant.	)	

**DEFENDANT'S ANSWER TO COMPLAINT**

AND NOW, comes the defendant, by his attorneys, Thomas W. Corbett, Jr., Attorney General, Kemal Alexander Mericli, Senior Deputy Attorney General, Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and files the following answer to plaintiff's complaint:

**FIRST DEFENSE**

Defendant responds to plaintiff's factual allegations as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied.